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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 CREST FINANCIAL AND
12 INVESTMENTS, INC.,

13 Plaintiff,

14 v.

15 VIET DUC LUU, et al.,

16 Defendants.

Case No. CV 18-03621-MWF (RAOx)

**ORDER REMANDING ACTION
AND DENYING REQUEST TO
PROCEED IN FORMA PAUPERIS**

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18 I.

19 **FACTUAL BACKGROUND**

20 Plaintiff Crest Financial and Investments, Inc. (“Plaintiff”) filed an unlawful
21 detainer action in Los Angeles County Superior Court against Defendants Viet Duc
22 Luu, Udeshi Canishka, and Does 1 to 10 (“Defendants”), on or about November 29,
23 2017. Notice of Removal (“Removal”) and Attached Complaint (“Compl.”), Dkt.
24 No. 1. Defendants are allegedly tenants of real property located in Los Angeles,
25 California (“the property”). Compl. ¶¶ 3, 6. Plaintiff is the owner of the property.
26 *Id.* at ¶¶ 2, 4. Plaintiff filed the unlawful detainer action demanding that
27 Defendants quit and deliver up possession of the property. *Id.* at ¶ 7. Plaintiff also
28 seeks monetary damages. *Id.* at ¶¶ 11, 17.

1 Defendant Luu filed a Notice of Removal on April 30, 2018, invoking the
2 Court’s federal question jurisdiction. Removal at 2. Defendant Luu also filed a
3 Request to Proceed *In Forma Pauperis*. Dkt. No. 3.

4 II.

5 DISCUSSION

6 Federal courts are courts of limited jurisdiction, having subject matter
7 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*
8 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.
9 2d 391 (1994). It is this Court’s duty always to examine its own subject matter
10 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.
11 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an
12 obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,
13 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an
14 opportunity to respond when a court contemplates dismissing a claim on the merits,
15 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting
16 internal citations). A defendant attempting to remove an action from state to
17 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
18 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”
19 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
20 Cir. 1992).

21 Defendant Luu asserts that this Court has subject matter jurisdiction pursuant
22 to 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in relevant
23 part, that a defendant may remove to federal court a civil action in state court of
24 which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a). Section
25 1331 provides that federal “district courts shall have original jurisdiction of all civil
26 actions arising under the Constitution, laws, or treaties of the United States.” *See*
27 *id.* § 1331.

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1 Here, the Court’s review of the Notice of Removal and attached Complaint
2 makes clear that this Court does not have federal question jurisdiction over the
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent
4 from the face of the Complaint, which appears to allege only a simple unlawful
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203
6 GAF (SSx), 2010 WL 4916578, at *2 (C.D.Cal. Nov. 22, 2010) (“An unlawful
7 detainer action does not arise under federal law.”) (citation omitted); *IndyMac*
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA(DTBx), 2010 WL
9 234828, at *2 (C.D.Cal. Jan. 13, 2010) (remanding an action to state court for lack
10 of subject matter jurisdiction where plaintiff’s complaint contained only an
11 unlawful detainer claim).

12 Second, there is no merit to Defendant Luu’s contention that federal question
13 jurisdiction exists based on alleged violations of his equal protection rights under
14 the Fourteenth Amendment. Removal at 4. It is well settled that a “case may not
15 be removed to federal court on the basis of a federal defense . . . even if the defense
16 is anticipated in the plaintiff’s complaint, and even if both parties concede that the
17 federal defense is the only question truly at issue.” *Caterpillar Inc. v. Williams*,
18 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987). Thus, to the extent
19 Defendant’s defenses to the unlawful detainer action are based on alleged violations
20 of federal law, those defenses do not provide a basis for federal question
21 jurisdiction. *See id.* Because Plaintiff’s complaint does not present a federal
22 question, either on its face or as artfully pled, the court lacks jurisdiction under 28
23 U.S.C. § 1331.

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III.
CONCLUSION

Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

IT IS FURTHER ORDERED that Defendant's Request to Proceed *In Forma Pauperis* is DENIED as moot.

IT IS SO ORDERED.

DATED: May 3, 2018



MICHAEL W. FITZGERALD
UNITED STATES DISTRICT JUDGE